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November 19, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary
Federal Communications Commission
Room TW-A325
445 Twelfth Street, SW, Portals II
Washington, DC 20554

Re: Notice of Inquiry, Low-Volume Long-Distance Users, CC Docket No. 99-249

Dear Ms. Salas,

For placement in the official record of the above-captioned proceeding, enclosed please find the "Further Declaration Of Gregory L. Rosston."

Pursuant to section 1.1204(b)(1) of the Commission's Rules, this communication is not subject to the disclosure requirements of 47 C.F.R. § 1.1206; however, two copies of this letter and the attached declaration are enclosed for the Commission's records. If you have any questions concerning this document, please do not hesitate to contact me at 908-221-4617.

Sincerely,

James H. Bolin, Jr. /ha

James H. Bolin, Jr.

Enclosure

FURTHER DECLARATION OF GREGORY L. ROSSTON

on Behalf of AT&T Corp. in the Matter of
Low-Volume Long-Distance Users,
CC Docket No. 99-249

I. Introduction

1. My name is Gregory L. Rosston, and my professional credentials are fully outlined in the two declarations[1] that I filed previously in this proceeding. I have been asked by AT&T to examine CFA's Reply comments in response to the Commission's Notice of Inquiry in CC Docket No. 99-249, Low-Volume Long-Distance Users.[2] CFA's proposals would increase long-distance rates for **all** of the poorest 25% of households and substitute regulation and implicit subsidy for market forces and competitive pricing.

2. CFA claims that my initial income analysis submitted in support of AT&T's comments on September 20, 1999 is essentially invalid. To the contrary, CFA's criticism is utterly inapposite because it is based on a complete misunderstanding of the term Billed Telephone Number ("BTN"). CFA also attempts to make two points in its Reply comments: that a majority of consumers have been harmed by changes in regulation and long-distance pricing; and that call volume increases with income. I will address each of these points and demonstrate CFA's analytical and data errors.

3. CFA's Reply fails to make any mention of the extensive record in my declaration and supported by other commenters showing that robust competition in the long distance market protects consumers and is superior to traditional rate regulation as a means to maximize the welfare of users of long-distance services. CFA's Reply does not even attempt to offer a rationale as to why the government should interfere in this highly competitive market.

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[1] Declaration of Gregory L. Rosston on behalf of AT&T Corp. in the Matter of Low-Volume Long-Distance Users, CC Docket No. 99-249 (filed Sept. 22, 1999) ("Rosston Declaration"); Reply Declaration of Gregory L. Rosston on behalf of AT&T Corp. in the Matter of Low-Volume Long-Distance Users, CC Docket No. 99-249 (filed Oct. 20, 1999) ("Rosston Reply Declaration").

[2] Reply Comments of Consumer Federation of America, Consumers Union and the Texas Office of Public Utility Counsel, filed October 20, 1999 in Notice of Inquiry, Low-Volume Long-Distance Users, CC Docket No. 99-249, FCC 99-168 (released July 20, 1999) ("CFA Reply").

II. CFA's Sole Criticism Of My Analyses Is Based On A Fundamental Misunderstanding, And Is Simply Incorrect

4. CFA makes only a single substantive criticism of my analyses and the data upon which they are based. It then attempts to "spin" the purported flaw in my declaration into grounds for dismissing my results (which CFA is apparently otherwise unable to challenge), and at one point actually suggests that AT&T "intended to deceive the Commission."[3] In fact, CFA's strident and sweeping denunciation of my work is utterly wrong-headed, because it rests solely on a misunderstanding of the dataset that I employed.

5. As I explained in my declaration, I performed an analysis of a sample of AT&T billing records for approximately three million BTNs.[4] CFA glibly (and incorrectly) claims that: "The BTN database does not reflect reality. It is a fiction. AT&T does not actually bill customers on a billed telephone number basis. It bills them on an account basis."[5] In fact, AT&T bills on a BTN basis because a BTN **is an account**. AT&T divides telephone numbers into Billed Telephone Numbers and Working Telephone Numbers ("WTNs"). A BTN may have one or more WTNs associated with it. In other words, the BTN is the account basis that CFA claims I should have used. CFA wastes 8 pages of its reply comments wrongly criticizing my analysis, but its sole attack on my findings is unequivocally incorrect.

6. In my initial analysis, I avoided the very problems that CFA identifies (mistakenly) in its reply by using BTN-level data for single line BTN customers only. In this way, I used "account level" data and avoided, to the extent possible, including accounts with multiple lines used only for Internet access or other "non-primary" purposes. Subsequently, I have incorporated data on multi-line BTNs into my original sample to see if their inclusion makes any substantial difference in my results.

7. Incorporating multi-line BTNs into my analysis changes the results only slightly, and does not alter any of the conclusions in my two prior declarations. This change in the dataset I utilized causes the impact of the minimum usage requirement ("MUR") to decline slightly, because for those customers subject to an MUR at all during the year, the average number of months they were actually affected by that requirement declines from 6.35 to 6.30. The difference between the incomes of customers subject to the MUR and all customers increases slightly, primarily at the upper end of the income range. The income differential increases only from 2.9% to 3.2% at the 25th percentile, where CFA logically should be concerned. As I concluded previously, such a small difference is not economically significant for policy decisions regarding re-regulating the long-distance industry.

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[3] CFA Reply, p. 11.

[4] Rosston Declaration, ¶ 21.

[5] CFA Reply, p. 11.

III. CFA's Claim That A Majority Of Consumers' Long-Distance Bills Have Increased Is Riddled with Errors

8. As I discussed in my reply declaration, CFA's analysis simply ignores competitive alternatives, and presumes that consumers are incapable of making rational decisions.[6] CFA's conclusion that long-distance rates have increased rests on cascading assumptions that consumers will select rate plans that do not yield the lowest rates based on their calling patterns and usage.

9. For example, CFA contends that Sprint's calling plan without a monthly MUR is not a viable plan because its "weekly per minute rate is exorbitant" at 30 cents per minute.[7] However, for consumers who make few or no long-distance calls, (or who primarily use dial-around carriers, calling cards, or prepaid cards) this may well be the best plan, as they have little reason to care that some other plans offer lower per-minute rates for direct-dialed long-distance calls. CFA also fails to acknowledge that the Sprint plan has an off-peak rate of 10 cents per minute. For users with low call volumes who are able to schedule their calls during this lower-priced time period, this may represent a reasonable trade-off to avoid an MUR. CFA simply dismisses the Sprint plan out of hand, even though consumers in the marketplace choose it -- consumers who understand their own households' circumstances and needs far better than CFA or the Commission can hope to. CFA incorrectly presumes that consumers are incapable of making reasonably intelligent decisions and that regulation would both induce consumers to behave more optimally and impose no costs.

10. CFA also ignores the fact that customers can and do make choices based on their own assessments of their situations, and ignores the evidence that over time customers have increasingly exercised their ability to choose long distance carriers and rate plans. As a result, CFA's analysis does not pick the lowest available prices for their hypothetical customers.[8] CFA also dismisses dial-around, prepaid cards and calling cards, despite the fact that the market is proving that these options are attractive to customers. Because it ignores competitive alternatives in an effort to reach its

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[6] Rosston Reply Declaration, ¶¶ 16-22.

[7] CFA Reply, p. 19.

[8] Compounding these errors, CFA again bases many of its conclusions on a complete misinterpretation of Table 2.4 of the Commission's report, Reference Book of Rates, Price Indices, and Expenditures for Telephone Service (June 1999). I explained these errors at length in my reply declaration. See Rosston Reply Declaration, ¶ 16. In addition, CFA's Exhibit 2 relies on per-minute rates not found in the FCC's Table 2.4 that CFA claims is the basis for its calculations. Further, by relying on Table 2.4, CFA ignores the fact that there are numerous options for consumers in addition to AT&T's rate plans.

preordained conclusions, CFA's analysis is the equivalent of saying that it is too costly to shop at Safeway while ignoring the availability of competitive products at warehouse clubs simply because they are "less convenient."

11. Finally, CFA's calculations that purport to show most consumers have low-volume long-distance usage ignore intralata and intrastate interLATA usage.[9] But intraLATA toll and intrastate interLATA charges apply toward AT&T's MUR and appear on consumers' long-distance bills, and therefore are clearly a relevant part of any analysis of the long-distance market for the purposes of the instant proceeding. By ignoring these categories of toll calls, CFA clearly and significantly biases its data analysis toward finding lower overall bills -- and therefore toward finding a negative impact from the conversion of per-minute rates to fixed charges. My analysis avoids this error by including these types of toll calls in my calculations of customers' monthly usage.[10]

12. Because of all of these errors, CFA's conclusions that a majority of consumers have been harmed by the change to more efficient and competitive recovery of costs are simply baseless. Reasonable analysis of the market shows that consumers have choices, exercise their choices and benefit from long-distance competition. As Chairman Kennard recently said, "There's no question any consumer in America today can get cheaper long distance rates than three years ago."[11]

IV. CFA's Claims That Low-Income Consumers Have Been Injured By The Move Toward More Competitive Long-Distance Pricing Are Simply Wrong

13. CFA's Reply comments contend that low-income consumers have been hurt more than high-income consumers by changes in long distance pricing. CFA bases this conclusion on claims that have questionable relevance at best, or that actually support the point that most consumers and most low-income consumers would be hurt by CFA's proposal.

14. First, CFA claims that calling volume increases with income. I made a similar point in my initial declaration, but have also showed, using both AT&T data and CFA-supplied data, that the vast majority of low-income consumers are unaffected by the

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[9] See CFA Reply, p. 6.

[10] As I discussed in my initial declaration, AT&T does not have the records for calls made on other networks – dial around, calling card, prepaid card, or intraLATA toll calls made by customers who are presubscribed to another carrier. As a result, my analysis actually underestimates consumers' total usage.

[11] "Promotions for Cut-Rate Long Distance Draw Fire," Wall Street Journal, November 4, 1999, at B1.

MUR because they make more than $3 worth of calls per month.[12] The fact that, according to CFA's own data, the average low-income customer has a long-distance bill greater than $25 per month and the average high-income household has a long-distance bill of $40 per month is essentially irrelevant to an analysis of the effects of a $3 MUR, because neither "average" customer will incur any costs because of that requirement.

15. CFA's reply comments also present (for the first time) new data obtained from a limited survey conducted by CFA. These results strongly support the points I made in my reply declaration. CFA's Reply Exhibit 1 shows that 78% of households with annual incomes below 10,000, and 70-80% of all households with income below $40,000 would actually be hurt by a ban on MURs. Because those consumers do not currently pay any MUR-related charges (because their usage is over $3 per month), they would in fact see higher bills due to regulatory intervention of the type CFA demands, because IXCs would be forced to increase per minute charges in order to recover their fixed costs.

16. Moreover, contrary to CFA's assertions, **all** low-income households would be harmed, not helped, by re-regulation of long-distance rates such as that proposed by CFA. In its entire 53 page submission, CFA fails even to mention AT&T's Lifeline program. (I mentioned "Lifeline" 23 times in my initial declaration alone, and AT&T also described that program in its comments). AT&T's Lifeline program eviscerates **any** argument that CFA could otherwise make that low income consumers are harmed by AT&T's MUR, PICC pass-through or universal service recovery charges. Even if one were to accept, for the sake of argument, all of CFA's questionable data and claims, the AT&T Lifeline program must lead one to conclude that low-income consumers who qualify for Lifeline programs (making up roughly 25% of households according to Exhibit 1 to CFA's Reply) can only benefit from reductions in per-minute long-distance rates, since they are exempt from any flat-rated charges.

17. CFA's proposal would hurt these low-income consumers by rescinding the latest rate reductions from what Chairman Kennard calls the long-distance "price war." As the Chairman recently observed, "American consumers are enjoying the lowest long distance rates in history and the lowest Internet rates in the world for one reason: competition. Competition has produced a price war in the long distance market."[13] By eliminating competitively determined pricing, CFA's proposal will cause long-distance companies to recover costs inefficiently and to raise, not lower, rates.

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[12] Rosston Reply Declaration, ¶¶ 29-33.

[13] Statement of FCC Chairman William E. Kennard on Proposed Merger of MCI Worldcom Inc. and Sprint Corp., October 5, 1999.

V. Conclusion

18. CFA's sole substantive criticism of my analysis rests entirely on a misunderstanding of the dataset I assembled. CFA has failed to offer anything that calls any portion of my prior analyses into question.

19. CFA's reply comments attempt to make two additional points, but its misinterpretation of the underlying data renders its conclusions baseless. First, CFA ignores the Lifeline programs offered by AT&T and other IXCs that enable households with the lowest incomes to avoid MURs, and PICC pass-through and universal service recovery charges. This moots any argument that low-income households have been harmed. Second, CFA's data shows that most households are <u>not</u> harmed by the imposition of an MUR; instead most households benefit from the corresponding reduction in per-minute prices.

20. CFA also ignores the vast amount of evidence showing the competitiveness of the long-distance industry. It is clear from the comments that this competitiveness will protect all consumers much better than heavy-handed regulation.

21. As a result of these and other shortcomings, CFA's reply comments add nothing of substance to the debate on the impact of changes in the long distance industry on low-income or low-volume consumers.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on November 18, 1999.

Gregory L. Rosston